

Senate Bill No. 7

Passed the Senate August 31, 2016

Secretary of the Senate

Passed the Assembly August 25, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1954 of, and to add Chapter 2.5 (commencing with Section 1954.201) to Title 5 of Part 4 of Division 3 of, the Civil Code, to add Section 17922.14 to the Health and Safety Code, and to add Section 517 to, and to add Article 5 (commencing with Section 537) to Chapter 8 of Division 1 of, the Water Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, Wolk. Housing: water meters: multiunit structures.

(1) Existing law generally regulates the hiring of dwelling units and, among other things, imposes certain requirements on landlords and tenants. Among these requirements, existing law requires landlords to provide tenants with certain notices or disclosures pertaining to, among other things, pest control and gas meters.

This bill would express the intent of the Legislature to encourage the conservation of water in multifamily residential rental buildings through means either within the landlord's or the tenant's control, and to establish that the practices involving the submetering of dwelling units for water service are just and reasonable, and include appropriate safeguards for both tenants and landlords.

This bill would, if a submeter is used to charge a tenant separately for water service, impose requirements on landlords relating to submetered water service to individual dwelling units. The bill would require a landlord to make certain disclosures to the tenant prior to the execution of the rental agreement, if the landlord intends to charge a tenant separately from rent for water service in a property with submeters. The bill would specify that as part of the monthly bill for water service, a landlord may only bill a tenant for volumetric water usage, as specified, a portion of any recurring fixed charge billed to the property by the water purveyor, as specified, a billing, administrative, or other fee, as prescribed, and a late charge. The bill would specify that payments are required to be due at the same point in each billing cycle, as prescribed, and that each bill must include and separately set forth certain information. The bill would prohibit a landlord from charging certain additional fees. The bill would require a landlord

to maintain and make available in writing to a tenant, as specified, the date the submeter was last inspected, tested, and verified, the data used to calculate the tenant's bill, and the location of the submeter. The bill would require a landlord to investigate and, if warranted, rectify certain problems or a submeter reading that indicates constant or abnormal water usage. The bill would permit a landlord to enter a dwelling unit for specified purposes relating to a submeter or water fixture if certain requirements are met. The bill would permit a tenant to be charged late fees, as specified. The bill would provide that these provisions shall become operative on January 1, 2018.

(2) The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit the building standard to the California Building Standards Commission for approval and adoption. Existing law creates the Building Standards Administration Special Revolving Fund and requires that funds deposited into the fund be expended, upon appropriation by the Legislature, to carry out specified provisions of law that relate to building standards, with emphasis placed on certain activities relating to green building standards.

This bill would authorize the Department of Housing and Community Development to develop and propose for adoption by the commission building standards that require the installation of water meters or submeters in multiunit residential buildings, as specified. The bill would exempt specified categories of structures from these building standards. This bill would provide that moneys in the fund are available to the department, upon appropriation, for administrative costs associated with the development of building standards that require the installation of water meters or submeters in multiunit residential buildings.

(3) The Water Measurement Law requires every water purveyor to require, as a condition of new water service on and after January 1, 1992, the installation of a water meter to measure water service. That law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters in accordance with a certain timetable.

This bill would add to the Water Measurement Law the requirement that a water purveyor that provides water service to

a newly constructed multiunit residential structure or newly constructed mixed-use residential and commercial structure that submits an application for a water connection after January 1, 2018, measure the quantity of water supplied to each individual dwelling unit as a condition of new water service and permit the measurement to be by individual water meters or submeters, as defined. The bill would require the owner of the structure to install submeters that comply with laws and regulations governing the approval of submeter types or the installation, maintenance, reading, billing, and testing of submeters, including, but not limited to, the California Plumbing Code. The bill would further require installation of submeters to be performed either by contractors licensed by the Contractors' State License Board that employs at least one journey person who meets specified training requirements or by a registered service agency registered with the Department of Food and Agriculture. The bill would exempt certain structures from these requirements. The bill would prohibit a water purveyor from imposing an additional capacity or connection fee or charge for a submeter that is installed by the owner, or his or her agent. The bill would additionally provide that these provisions are intended to preclude the adoption, or preempt the operation, of an ordinance or regulation adopted after January 1, 2013, that regulates submeters, as specified. The bill would provide that these provisions shall become operative on January 1, 2018.

The people of the State of California do enact as follows:

SECTION 1. Section 1954 of the Civil Code is amended to read:

1954. (a) A landlord may enter the dwelling unit only in the following cases:

- (1) In case of emergency.
- (2) To make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors or to make an inspection pursuant to subdivision (f) of Section 1950.5.
- (3) When the tenant has abandoned or surrendered the premises.
- (4) Pursuant to court order.

(5) For the purposes set forth in Chapter 2.5 (commencing with Section 1954.201).

(b) Except in cases of emergency or when the tenant has abandoned or surrendered the premises, entry may not be made during other than normal business hours unless the tenant consents to an entry during other than normal business hours at the time of entry.

(c) The landlord may not abuse the right of access or use it to harass the tenant.

(d) (1) Except as provided in subdivision (e), or as provided in paragraph (2) or (3), the landlord shall give the tenant reasonable notice in writing of his or her intent to enter and enter only during normal business hours. The notice shall include the date, approximate time, and purpose of the entry. The notice may be personally delivered to the tenant, left with someone of a suitable age and discretion at the premises, or, left on, near, or under the usual entry door of the premises in a manner in which a reasonable person would discover the notice. Twenty-four hours shall be presumed to be reasonable notice in absence of evidence to the contrary. The notice may be mailed to the tenant. Mailing of the notice at least six days prior to an intended entry is presumed reasonable notice in the absence of evidence to the contrary.

(2) If the purpose of the entry is to exhibit the dwelling unit to prospective or actual purchasers, the notice may be given orally, in person or by telephone, if the landlord or his or her agent has notified the tenant in writing within 120 days of the oral notice that the property is for sale and that the landlord or agent may contact the tenant orally for the purpose described above. Twenty-four hours is presumed reasonable notice in the absence of evidence to the contrary. The notice shall include the date, approximate time, and purpose of the entry. At the time of entry, the landlord or agent shall leave written evidence of the entry inside the unit.

(3) The tenant and the landlord may agree orally to an entry to make agreed repairs or supply agreed services. The agreement shall include the date and approximate time of the entry, which shall be within one week of the agreement. In this case, the landlord is not required to provide the tenant a written notice.

(e) No notice of entry is required under this section:

(1) To respond to an emergency.

(2) If the tenant is present and consents to the entry at the time of entry.

(3) After the tenant has abandoned or surrendered the unit.

SEC. 2. Chapter 2.5 (commencing with Section 1954.201) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2.5. WATER SERVICE

1954.201. It is the intent of the Legislature in enacting this chapter to do both of the following:

(a) To encourage the conservation of water in multifamily residential rental buildings through means either within the landlord's or the tenant's control.

(b) To establish that the practices involving the submetering of dwelling units for water service are just and reasonable, and include appropriate safeguards for both tenants and landlords.

1954.202. For the purposes of this chapter:

(a) "Billing agent" means a person or entity who contracts to provide submetering services to a landlord, including billing.

(b) "Landlord" means an owner of residential rental property. "Landlord" does not include a tenant who rents all or a portion of a dwelling unit to subtenants. "Landlord" does not include a common interest development, as defined in Section 4100 of the Civil Code.

(c) "Property" means real property containing two or more dwelling units that is served by a single master meter.

(d) "Ratio utility billing system" means the allocation of water and sewer costs to tenants based on the square footage, occupancy, or other physical factors of a dwelling unit.

(e) "Rental agreement" includes a fixed-term lease.

(f) "Renting" includes leasing, whether on a periodic or fixed-term basis.

(g) "Submeter" means a device that measures water consumption of an individual rental unit within a multiunit residential structure or mixed-use residential and commercial structure, and that is owned and operated by the landlord of the structure or the landlord's agent. As used in this section, "multiunit residential structure" and "mixed-use residential and commercial structure" mean real property containing two or more dwelling units.

(h) “Water service” includes any charges, whether presented for payment on local water purveyor bills, tax bills, or bills from other entities, related to water treatment, distribution, or usage, including, but not limited to, water, sewer, stormwater, and flood control.

(i) “Water purveyor” means a water purveyor as defined in Section 512 of the Water Code.

1954.203. (a) Submeters used to separately bill tenants for water service shall satisfy each of the following requirements:

(1) The submeter shall be inspected, tested, and verified for commercial purposes pursuant to law, including, but not limited to, Section 12500.5 of the Business and Professions Code.

(2) The submeter shall conform to all laws regarding installation, maintenance, repair, and use, including, but not limited to, regulations established pursuant to Section 12107 of the Business and Professions Code.

(3) The submeter shall measure only water that is supplied for the exclusive use of the particular dwelling unit, and only to an area within the exclusive possession and control of the tenant of the dwelling unit.

(4) The submeter shall be capable of being accessed and read by the tenant of the dwelling unit and read by the landlord without entering the dwelling unit. A submeter installed before January 1, 2018, may be read by the landlord after entry into the unit, in accordance with this chapter and Section 1954.

(5) The submeter shall be reinspected and recalibrated within the time limits specified in law or regulation.

(b) This section does not require a water purveyor to assume responsibility for ensuring compliance with any law or regulation governing installation, certification, maintenance, and testing of submeters and associated onsite plumbing.

1954.204. Before executing a rental agreement, a landlord who intends to charge a tenant separately from rent for water service in a property with submeters shall clearly disclose the following information to the tenant, in writing, in at least 10-point type, which may be incorporated into the rental agreement:

(a) That the tenant will be billed for water service separately from the rent.

(b) An estimate of the monthly bill for water service for dwelling units at the property based on either of the following:

(1) The average or median bill for water service for comparative dwelling units at the property over any three of the past six months.

(2) The amount of the bill based upon average indoor water use of a family of four of approximately 200 gallons per day, and including all other monthly charges that will be assessed. Estimates for other gallons per day may also be included. The estimate shall include a statement that the average family of four uses about 200 gallons of water each day.

(c) The due dates and payment procedures for bills for water service.

(d) A mailing address, an email address, and a toll-free telephone number or a local telephone number for the tenant to contact the landlord or billing agent with questions regarding the water service billing and the days and hours for regular telephone service at either number.

(e) That the monthly bill for water service may only include the following charges:

(1) Payment due for the amount of usage as measured by the submeter and charged at allowable rates in accordance with subdivision (a) of Section 1954.205.

(2) Payment of a portion of the fixed fee charged by the water purveyors for water service.

(3) A fee for the landlord's or billing agent's costs in accordance with paragraph (3) of subdivision (a) of Section 1954.205.

(4) Any late fee, with the amounts and times assessed, in compliance with Section 1954.213.

(f) A statement that the tenant shall notify the landlord of any leaks, drips, water fixtures that do not shut off properly, including, but not limited to, a toilet, or other problems with the water system, including, but not limited to, problems with water-saving devices, and that the landlord is required to investigate, and, if necessary, repair these problems within 21 days, otherwise, the water bill will be adjusted pursuant to law.

(g) A mailing address, an email address, and a toll-free telephone number or a local telephone number for the tenant to use to contact the landlord, or an agent of the landlord, to report any leaks, drips, water fixtures that do not shut off properly, including, but not limited to, a toilet, or other problems with the water system, including, but not limited to, problems with water-saving devices.

(h) A statement that the landlord shall provide any of the following information if asked by the tenant:

- (1) The location of the submeter.
- (2) The calculations used to determine a monthly bill.
- (3) The date the submeter was last certified for use, and the date it is next scheduled for certification, if known.

(i) A statement that if the tenant believes that the submeter reading is inaccurate or the submeter is malfunctioning, the tenant shall first notify the landlord in writing and request an investigation. A tenant shall be provided with notice that if an alleged submeter malfunction is not resolved by the landlord, a tenant may contact the local county sealer and request that the submeter be tested. Contact information for the county sealer shall be included in the disclosure to the tenant.

(j) A statement that this disclosure is only a general overview of the laws regarding submeters and that the laws can be found at Chapter 2.5 (commencing with Section 1954.201) of Title 5 of Part 4 of Division 3 of the Civil Code, available online or at most libraries.

1954.205. (a) As part of the regular bill for water service, a landlord shall only bill a tenant for the following water service:

(1) A charge for volumetric usage, which may be calculated in any the following ways:

(A) The amount shall be calculated by first determining the proportion of the tenant's usage, as shown by the submeter, to the total usage as shown by the water purveyor's billing. The dollar amount billed to the tenant for usage shall be in that same proportion to the dollar amount for usage shown by the water purveyor's billing.

(B) If the water purveyor charges for volumetric usage based on a tiered rate schedule, the landlord may calculate the charge for a tenant's volumetric usage as described in subparagraph (A) or the landlord may instead divide each tier's volume evenly among the number of dwelling units, and the rate applicable to each block shall be applied to the consumption recorded for each dwelling unit.

(C) If the water purveyor charges the property rates on a per-dwelling unit basis, the tenants may be charged at those exact per unit rates.

(2) Any recurring fixed charge for water service billed to the property by the water purveyors that, at the landlord's discretion, shall be calculated by either of the following:

(A) The tenant's proportion of the total fixed charges charged to the property. The tenant's proportion shall be based on the percentage of the tenant's volumetric water use in relation to the total volumetric water use of the entire property, as shown on the property's water bill during that period.

(B) Dividing the total fixed charges charged to the property equally among the total number of residential units and nonresidential units at the property.

(3) A billing, administrative, or other fee for the landlord's and billing agent's costs, which shall be the lesser of an amount not to exceed four dollars and seventy-five cents (\$4.75), as adjusted pursuant to this paragraph or 25 percent of the amount billed pursuant to paragraph (1). Beginning January 1, 2018, the maximum fee authorized by this paragraph may be adjusted each calendar year by the landlord, no higher than a commensurate increase in the Consumer Price Index based on a California fiscal year average for the previous fiscal year, for all urban consumers, as determined by the Department of Finance.

(4) A late charge as assessed pursuant to Section 1954.213.

(b) If a submeter reading for the beginning or end of a billing period is, in good faith, not available, the landlord shall bill the tenant according to Section 1954.212.

(c) This section does not prohibit a landlord or the landlord's billing agent from including any other lawful charges, including, but not limited to, rent, on the same bill.

1954.206. (a) Submeters shall be read within three days of the same point in each billing cycle.

(b) Payments shall be due at the same point in each billing cycle. A tenant may agree in writing to receive a bill electronically. A tenant may rescind authorization for electronic delivery of bills at any time. The landlord shall have 30 days to comply with any change in how a tenant requests to receive a bill. A tenant shall not be required to pay a bill electronically.

(c) A bill shall include and separately set forth the following information:

(1) The submeter reading for the beginning date and ending date of the billing cycle, the dates read, and the indicated

consumption as determined by subtracting the amount of the beginning date submeter reading from the amount of the ending date submeter reading. If the unit of measure is in something other than gallons, the indicated consumption shall be expressed in gallons.

(2) The amounts charged pursuant to subdivision (a) of Section 1954.205.

(3) The rate or rates charged for the volumetric charge per unit of measure.

(4) The amount, if any, due from the previous month's bill.

(5) The amount, if any, due from bills prior to the previous month's bill.

(6) The late fee, if any, imposed on amounts specified in paragraph (4) or (5).

(7) The total amount due for the billing period.

(8) The due date for the payment.

(9) If a late fee is charged by the landlord, a statement of when the late fees would apply.

(10) The procedure to contact the landlord or billing agent with questions or concerns regarding the bill. Upon request of the tenant, the landlord or billing agent shall respond in writing to any questions or disputes from the tenant. If a billing agent is used, the name of the billing agent shall be disclosed. The tenant shall be provided a mailing address, email address, and telephone number, which shall be either a toll-free or a local number, and the time of regular telephone hours for contact regarding billing inquiries.

(11) A statement that the landlord or billing agent is not the water purveyor that includes the name of the local water purveyor providing the water service to the master meter.

(12) A mailing address, an email address, and a toll-free telephone number or a local telephone number for the tenant to use to contact the landlord, or an agent of the landlord, to report any leaks, drips, water fixtures that do not shut off properly, including, but not limited to, a toilet, or other problems with the water system, including, but not limited to, problems with water-saving devices.

(d) Notwithstanding paragraphs (4) and (5) of subdivision (c), a separate bill may be provided for past due amounts if past due amounts are not included on the current month's bill.

1954.207. (a) At the beginning of a tenancy, a submeter shall be read after the tenant takes possession. If the regular reading occurs less than five days prior to the tenant taking possession, that reading may be substituted to establish usage. If the submeter is manually read, the first bill may be estimated based on the rate established in subdivision (b) of Section 1954.212.

(b) For a water-service bill at the end of a tenancy, the submeter shall be read within five days, if possible. If the submeter cannot be read within five days at the end of a tenancy, the bill amount for the final month shall be based on the bill amount for the previous month.

(c) The landlord may, at his or her discretion, deduct an unpaid water service bill from the security deposit during or upon termination of a tenancy, if the last water service bill showing the amount due is attached to the documentation required by Section 1950.5.

1954.208. Unless it can be documented that a penalty is primarily the result of a tenant's or tenants' failure to comply with state or local water use regulations or restrictions, or both, regarding wasting of water, a landlord shall not charge, recover, or allow to be charged or recovered, fees incurred by the landlord from the water purveyors, billing agent, or any other person for any deposit, disconnection, reconnection, late payment by the landlord, or any other penalty assessed against the landlord. This section shall not prevent a landlord from charging a tenant for the tenant's late payment of any bill.

1954.209. The landlord shall maintain and make available in writing, at the tenant's written or electronic request, within seven days after the request, the following:

(a) The date the submeter was last inspected, tested, and verified, and the date by which it shall be reinspected, tested, and verified under law, if available. If this information is not available, the landlord shall disclose that the information is not available.

(b) The data used to calculate the tenant's bill, as follows:

(1) The most recent water bill for the property's master water meter showing the recurring fixed charge for water service billed to the property by the water purveyor, and the usage charges for the property, including any tiered amounts.

(2) Any other bills for water service, as defined in subdivision (h) of Section 1954.202, for the property.

(3) The number of dwelling units in the property used in the last billing period to calculate the tenant's water service charges.

(4) If not shown on the bill for the property, the per unit charges for volumetric water usage, including any tiered amounts.

(5) The formula used to calculate the charge for the tenant's volumetric water usage.

(c) The location of the submeter.

1954.210. (a) If a tenant notifies the landlord of, or the landlord otherwise becomes aware of, a leak, a drip, a water fixture that does not shut off properly, including, but not limited to, a toilet, a problem with a water-saving device, or other problem with the water system that causes constant or abnormally high water usage, or a submeter reading indicates constant or abnormally high water usage, the landlord shall have the condition investigated, and, if warranted, rectify the condition.

(b) A tenant shall not remove any water fixtures or water-saving devices that have been installed by the landlord.

(c) If the condition is rectified more than 21 days after the tenant provides notice to the landlord or the landlord otherwise becomes aware of a leak, a drip, a water fixture that does not shut off properly, including, but not limited to, a toilet, a problem with a water-saving device, or other problem with the water system that causes constant or abnormally high water usage, or a submeter reading indicates constant or abnormally high water usage, pursuant to subdivision (a), the tenant's volumetric usage for any month or months that include the period between 21 days after the initial investigation and the repair shall be deemed to be fifteen dollars (\$15) or actual usage, whichever is less. At the landlord's option, if submeter readings are available to determine the usage at a point prior to investigation and a point following repair, usage shall be deemed to be fifty cents (\$0.50) per day for those days between the two submeter readings or actual usage, whichever is less.

(d) If the condition remains unrectified for 180 days after investigation, no further volumetric usage charges may be imposed until the condition is repaired.

(e) If, in order to comply with subdivision (a), the landlord has provided notice pursuant to Section 1954, and the tenant has failed to provide access to the dwelling unit, then the charges shall not be determined pursuant to subdivisions (c) and (d).

(f) If the local water purveyor notifies the landlord of constant or abnormally high water usage at the property, the landlord shall investigate and, if possible, rectify the cause of the high water usage.

1954.211. The landlord may enter a dwelling unit as follows:

(a) For the purpose of installing, repairing, or replacing a submeter, or for the purpose of investigating or rectifying a condition causing constant or abnormally high water usage, as required by subdivision (a) of Section 1954.210, if the requirements of Section 1954 are met.

(b) To read a submeter, if the requirements of this chapter and Section 1954 are met. Notwithstanding paragraph (3) of subdivision (d) of Section 1954, notice shall be given only in writing.

1954.212. (a) If a monthly submeter reading necessary to measure volumetric usage is unavailable, and the tenant has provided access to the submeter, the tenant may be charged 75 percent of the average amount billed for volumetric usage for the last three months for which complete billing information is available. The adjustment shall be disclosed on the bill.

(b) If no complete billing information is available for the prior three months, the volumetric usage charge shall be deemed to be fifty cents (\$0.50) per day that the data is not available.

(c) If monthly submeter readings remain unavailable for more than six months, the volumetric usage charge shall be deemed to be zero for any subsequent month that the data is not available.

1954.213. (a) A tenant may be charged a late fee for any water service bill not paid 25 days after mailing or other transmittal of the bill. If the 25th day falls on a Saturday, Sunday, or holiday, the late fee shall not be imposed until the day after the first business day following the 25th day.

(b) (1) A late fee of up to seven dollars (\$7) may be imposed if any amount of a water service bill remains unpaid after the time described in subdivision (a). A late fee of up to ten dollars (\$10) may be imposed in each subsequent bill if any amount remains unpaid.

(2) The total late fee imposed in any 12-month period upon the amount of a bill that remains unpaid shall not exceed 10 percent of the unpaid amount, exclusive of the administrative fee imposed pursuant to paragraph (3) of subdivision (a) of Section 1954.205 and the late fee imposed pursuant to paragraph (1).

(3) If any partial payments are made, they shall be credited against the bill that has been outstanding the longest.

(c) Notwithstanding subdivision (c) of Section 1954.207, if the water bill remains unpaid for 180 days after the date upon which it is due or the amount of the unpaid water bill equals or exceeds two hundred dollars (\$200), the landlord may terminate the tenancy in accordance with Section 1161 of the Code of Civil Procedure with the service of a three-day notice to perform the conditions or covenants or quit upon the tenant.

(d) Water service charges under this chapter shall not constitute rent.

(e) The water service to a dwelling unit shall not be shut off or otherwise interfered with by the landlord for any reason, including nonpayment of a bill. Notwithstanding the foregoing, a landlord or its agent may shut off water service to a dwelling unit or the property, in order to make repairs, replacements of equipment, or perform other maintenance at the property.

1954.214. This chapter does not preclude or preempt an ordinance or regulation adopted prior to January 1, 2013, that regulates the approval of submeter types or the installation, maintenance, reading, billing, or testing of submeters and associated onsite plumbing.

1954.215. The rights or obligations established under this chapter shall not be waived. Any purported waiver is void.

1954.216. (a) This chapter applies to the following:

(1) All dwelling units offered for rent or rented in a building where submeters were required to be installed pursuant to a building standard adopted in accordance with Section 17922.14 of the Health and Safety Code.

(2) All dwelling units where submeters are used to charge a tenant separately for water service.

(b) Nothing in this chapter shall be construed to apply to any dwelling units other than those described in subdivision (a).

(c) Nothing in this chapter shall be construed to apply or create a public policy or requirement that favors or disfavors the use of a ratio utility billing system.

1954.217. A submetering system that measures only a portion of a dwelling unit's water usage, including, but not limited to, a system that measures only hot water usage, shall not be subject to

this chapter if the system was first put in service before January 1, 2018.

1954.218. This chapter shall become operative on January 1, 2018.

1954.219. Any property that is required to install individual submeters pursuant to Article 5 (commencing with Section 537) of Chapter 8 of Division 1 of the Water Code shall at all times be required to bill residents for water service pursuant to this chapter.

SEC. 3. Section 17922.14 is added to the Health and Safety Code, to read:

17922.14. (a) (1) During the next regularly scheduled triennial code cycle that commences on or after January 1, 2018, or during a subsequent code adoption cycle, the department shall develop and propose for adoption by the California Building Standards Commission, pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, building standards requiring the installation of water meters or submeters in newly constructed multiunit residential structures or mixed-use residential and commercial structures, as those terms are defined in Section 517 of the Water Code. These standards shall conform to Article 5 (commencing with Section 537) of Chapter 8 of Division 1 of the Water Code.

(b) The proposed standards shall require the installation of water meters or submeters in newly constructed multiunit residential structures and mixed-use residential and commercial structures only for residential dwelling units within those structures, but shall not require installation in units within those structures that are used only for commercial purposes.

(c) (1) The department shall determine whether and under what circumstances the installation of water meters or submeters is infeasible and include in the building standards proposed in subdivision (a) the appropriate provision for exemption from this requirement. The department may consider whether there are any issues specific to high-rise structures that would require an exemption from the requirement for the installation of water meters or submeters.

(2) The following categories of structures shall be exempt from the building standards established pursuant to subdivision (a):

(A) Long-term health care facilities, as defined in Section 1418.

(B) Low-income housing. For the purposes of this subparagraph, “low-income housing” means a residential building that is financed

with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or federal, state, or local loans or grants, for which rents charged to lower income households do not exceed rents prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance, and for which not less than 90 percent of the dwelling units within the building are designated for occupancy by lower income households. As used in this subparagraph, “lower income households” has the same meaning as defined in Section 50079.5.

(C) Residential care facilities for the elderly, as defined in subdivision (k) of Section 1569.2.

(D) Housing at a place of education, as defined in Section 202 of the California Building Standards Code (Title 24 of the California Code of Regulations).

(E) Time-share property, as defined in subdivision (aa) of Section 11212 of the Business and Professions Code.

(d) Moneys in the Building Standards Administration Special Revolving Fund established pursuant to Section 18931.7 shall be available, upon appropriation by the Legislature, for the department’s administrative costs associated with the development of building standards in accordance with this section.

SEC. 4. Section 517 is added to the Water Code, to read:

517. “Submeter” means a device that measures water consumption of an individual rental unit within a multiunit residential structure or mixed-use residential and commercial structure, and that is owned and operated by the owner of the structure or the owner’s agent. As used in this section, “multiunit residential structure” and “mixed-use residential and commercial structure” mean real property containing two or more dwelling units.

SEC. 5. Article 5 (commencing with Section 537) is added to Chapter 8 of Division 1 of the Water Code, to read:

Article 5. Multiunit Structures

537. (a) The structures in all of the following categories shall be exempt from this article:

(1) Low-income housing. For purposes of this paragraph, “low-income housing” means a residential building financed with low-income housing tax credits, tax-exempt mortgage revenue

bonds, general obligation bonds, or local, state, or federal loans or grants, for which the rents of the occupants in lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed rents prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance, and for which not less than 90 percent of the dwelling units within the building are designated for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(2) Housing at a place of education, as defined in Section 202 of the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) Long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.

(4) Time-share property, as defined in subdivision (aa) of Section 11212 of the Business and Professions Code.

(5) Residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(b) A submeter used to measure water supplied to an individual residential unit that is required pursuant to this chapter shall be of a type approved pursuant to Section 12500.5 of the Business and Professions Code, and shall be installed and operated in compliance with regulations established pursuant to Section 12107 of the Business and Professions Code.

537.1. (a) Each water purveyor that sells, leases, rents, furnishes, or delivers water service to a newly constructed multiunit residential structure or newly constructed mixed-use residential and commercial structure for which an application for a water connection, or more than one connection, is submitted after January 1, 2018, shall require a measurement of the quantity of water supplied to each individual residential dwelling unit as a condition of new water service. The measurement may be by individual water meters or submeters.

(b) Unless the water purveyor or local government is operating under an ordinance or regulation requiring individual metering, the owner shall be required to install and read submeters, unless the water purveyor agrees to install and read individual meters.

(c) (1) The owner of the structure shall install submeters that comply with all laws and regulations governing the approval of submeter types or the installation, maintenance, reading, billing,

and testing of submeters, including, but not limited to, the California Plumbing Code.

(2) This subdivision does not require a water purveyor to fund or assume responsibility for ensuring compliance with any law or regulation governing the approval of submeter types or the installation, maintenance, reading, billing, and testing of submeters and associated onsite plumbing.

(3) Installation of submeters shall be performed by one of the following:

(A) A contractor licensed by the Contractors' State License Board who employs at least one journey person who has graduated from a state-approved apprenticeship program.

(B) A registered service agency that has registered with the Department of Food and Agriculture.

(d) A water purveyor shall not impose an additional capacity or connection fee or charge for a submeter that is installed by the owner, or his or her agent.

(e) This section shall remain operative until the date on which the California Building Standards Commission includes standards in the California Building Standards Code that conform to this article.

537.2. (a) A final occupancy permit for a building shall not be denied by a local building official if water submeters or meters have not been installed for each residential unit as required by this chapter if the building owner can demonstrate either of the following:

(1) Water submeters have been ordered and were delayed by the manufacturer.

(2) Water submeters for the building were submitted to a county sealer and are awaiting approval for use.

(b) After issuance of the occupancy permit, the owner shall demonstrate that the submeters are installed in the building within 120 days of approval by the county sealer.

537.3. (a) This article does not preclude or preempt an ordinance or regulation that regulates the approval of submeter types or the installation, maintenance, reading, billing, or testing of submeters and associated onsite plumbing if the ordinance or regulation was adopted prior to January 1, 2013.

(b) It is the intent of the Legislature to preclude the adoption, and preempt the operation, of an ordinance or regulation adopted

after January 1, 2013, that regulates the types of approved submeters, their installation, maintenance, reading, billing, and testing, and associated onsite plumbing.

(c) This article does not restrict the existing authority of a water purveyor, city, county, city and county, or other local agency to adopt and implement a program to promote water conservation that includes the installation of water meters and submeters, as required pursuant to subdivision (a) of Section 537.1, if the program is at least as stringent as the requirements of this article.

537.4. It is the intent of the Legislature that this article should not be construed to impose costs on any local government agency, except to the extent that the local government agency is a water purveyor.

537.5. This article shall become operative on January 1, 2018.

Approved _____, 2016

Governor